



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Coastal Industries, Inc.

File: B-230226

Date: May 3, 1988

DIGEST

Protest that awardee's bid should have been rejected as nonresponsive because it was unreasonably high for one item is denied where protester fails to show that agency's determination of price reasonableness was clearly unreasonable or resulted from fraud or bad faith.

DECISION

Coastal Industries, Inc., protests the award of a contract to Life Manufacturing Corporation under invitation for bids (IFB) No. DLA100-87-B-0775, issued by the Defense Logistics Agency (DLA) for trousers and sateen cloth. Coastal contends that the awardee's bid was nonresponsive and that award therefore should be made to Coastal as the sole remaining responsive bidder. We deny the protest.

The trousers and cloth are being procured by DLA on behalf of Saudi Arabia. The IFB was issued on December 16, 1987, for 150,001 pairs of trousers, item 0001, and 22,000 yards of tan cotton sateen cloth, item 0002. On January 7, 1988, DLA issued an amendment which added the following "token offer" clause to the IFB:

"CAUTION: Bidders for Item No. 0001 are required to also bid on Item No. 0002. Bids received for Item No. 0001 which do not include an offer for the complete quantity of Item No. 0002 or which are deemed to be merely token offers (i.e. unreasonably high prices) for Item No. 0002 will be rejected as nonresponsive for all items in the solicitation. Bidders for Item No. 0002, however, are not required to also bid on Item No. 0001. Award(s) will be made on the basis of the lowest overall cost to the government for both Item Nos. 0001 and 0002. Bidders are

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cautioned not to submit bids with restrictive quantity limitations preventing the government from making separate awards for Items Nos. 0001 and 0002, which may render the bid noncompetitive and/or prompt the Government to cancel one or both items."

Coastal and Life were the only firms submitting bids. They offered the following prices:

	Trousers (0001)	Cloth (0002)
Life	\$12.29 (per pair) (\$1,843,512.30 total)	\$3.20 (per yard) (\$70,400)
Coastal	\$14.68 (per pair) (\$2,202,014.70 total)	\$2.41 (per yard) (\$51,700)

Coastal argues that Life's bid should be rejected in its entirety as nonresponsive because its bid for the cloth is unreasonably high and constitutes a token offer pursuant to the token offer clause. Coastal contends that based on quotes Life received from two cloth suppliers, Life's markup is excessive. According to Coastal, Life's markup on the cloth, depending on which supplier's quote is used, ranges from 27 percent to 37 percent, while Coastal's markup is approximately 5 percent. Coastal believes this proves that Life's price is unreasonable and therefore constitutes a token offer. Coastal also relies on the approximately 30 percent difference between its and Life's bids as evidence that Life's bid is unreasonably high.

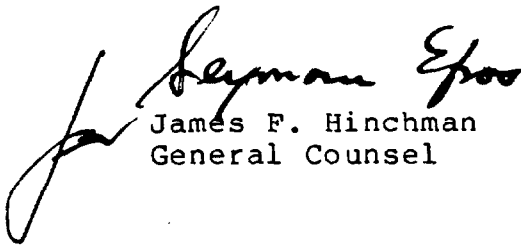
The agency maintains that the contracting officer's determination that Life's bid on item 0002 was not a token bid was reasonable. The agency points out that Life bid on an "all or none" basis, indicating that Life did not intend its offer for the cloth to be a token offer, and that Life's overall bid for items 0001 and 0002 was \$339,802.40 less than Coastal's bid. As discussed below, we see no basis to disturb the contracting officer's determination.

A determination concerning price reasonableness is a matter of administrative discretion which we will not question unless it is clearly unreasonable or there is a showing of fraud or bad faith. Spectrum Communications, B-220805, Jan. 15, 1986, 86-1 CPD ¶ 49. Here, the protester does not contend that the contracting officer's determination was made in bad faith, and has not shown that it was clearly unreasonable. In this regard, we do not find Coastal's argument concerning Life's markup to be persuasive. The IFB did not require bidders to disclose quotes received from suppliers and the contracting officer was not required to

use markup as a determinative factor in ascertaining price reasonableness. In any event, we do not believe that the difference between the protester's and awardee's prices for the cloth or the difference in their markups is so great as to find clearly unreasonable the contracting officer's determination that Life's price was not unreasonably high. See Taylor Associates, B-216110, June 3, 1985, 85-1 CPD ¶ 625 (where the awardee's price, which was 40 percent greater than the protester's, was not considered unreasonable). Further, we agree that the fact that Life submitted an "all or none" bid indicates that Life did not intend to submit an unreasonably high token bid for the cloth so as to prevent DLA from awarding that item to Life.

The protester also argues that the contracting officer's failure to explain how he arrived at his determination that Life's bid on the cloth was reasonable constitutes an abuse of discretion. In view of Coastal's failure to show that the Life's price was clearly unreasonable, we cannot object to the award on this basis. We agree, however, the agency should have provided such an explanation.

The protest is denied.



James F. Hinchman
General Counsel